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U.S. DISTRICT COURT
N.D. OF ALABAMA

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

JEREMIE WHITSEY,	)	
	)	
Plaintiff,	)	
	)	CIVIL ACTION NO.:
vs.	)	
	)	
NORFOLK SOUTHERN	)	
CORPORATION,	)	**Plaintiff demands a trial by**
	)	**struck jury.**
Defendant.	)	

COMPLAINT

JURISDICTION AND VENUE

1. This is a suit for race discrimination in violation of 42 U.S.C. § 1981 and Title VII of the Civil Rights Act of 1964, as amended for race discrimination arising the Defendant's decision to terminate the Plaintiff. The Plaintiff also brings a claim for gender discrimination in violation of Title VII arising from the same facts.

2. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§

1331, 1343(4) and 28 U.S.C. §§ 2201 and 2202.

3. The unlawful employment practices and acts of discrimination about which the plaintiff complains were committed in Jefferson County, Alabama.

PARTIES

4. The plaintiff, Jeremie Whitsey, is over 19 years of age and is a resident of St. Clair County, Alabama. Mr. Whitsey is an African-American, male.

5. Defendant, Norfolk Southern Corporation ("NSC") is an entity subject to suit under 42 U.S.C. § 1981.

6. NSC is a foreign corporation, organized under the laws of the state of Virginia, but doing business in Jefferson County, Alabama.

7. NSC was Mr. Whitsey's employer.

ADMINISTRATIVE REMEDIES

8. Mr. Whitsey filed a charge of discrimination with the Equal

Employment Opportunity Commission ("EEOC") on or about August 22, 2007.

9. The EEOC issued a Dismissal and Notice of Rights to Mr. Whitsey on June 5, 2008.

10. Mr. Whitsey received his Dismissal and Notice of Rights on June 7, 2008.

11. Mr. Whitsey filed this suit within 90 days of receiving his notice of right-to-sue letter.

12. All conditions precedent to the institution of this lawsuit have been fulfilled.

FACTUAL ALLEGATIONS

13. Mr. Whitsey began working for NSC in April 1998. As a conductor.

14. Mr. Whitsey progressed to the position of engineer in November 2005.

15. On April 29, 2006, prior to receiving the violation, NSC assigned Mr. Whitsey to an over-tonnage train which was eleven hundred tons of

over-tonnage.

16. When he observed the over-tonnage , Mr. Whitsey called the tower on the radio to inform it of the situation.

17. The trainmaster instructed Mr. Whitsey to go with the over-tonnage.

18. The over-tonnage affected Mr. Whitsey's ability to stop the train.

19. As a result of the over-tonnage affecting Mr. Whitsey's ability to stop the train, he received a red board violation.

20. NSC has a tape of the incident.

21. NSC's tape shows that Mr. Whitsey was not speeding.

22. However, NSC accused Mr. Whitsey of speeding.

23. NSC pulled Mr. Whitsey from service while an investigation could be conducted.

24. NSC notified Mr. Whitsey it intended on terminating him.

25. Mr. Whitsey appealed the decision to a panel of neutrals.

26. On June 1, 2007, Mr. Whitsey received the neutrals' letter terminating his employment.

27. At least three (3) white employees who received a red board violation

were not terminated by NSC.

28. At least one female employee who received a red board violation was not terminated by NSC.

COUNT I

RACE DISCRIMINATION
42 U.S.C. § 1981

29. The Plaintiff adopts and incorporates the above facts and allegations in support of this count.

30. The Defendant unlawfully discriminated against Mr. Whitsey based on his race by subjecting him to disparate treatment with respect to discipline for red board violations.

31. Upon information and belief, the Defendant engages in a pattern and practice of discriminating against African-American employees with respect to discipline.

32. The Defendant's discriminatory conduct injured the Plaintiff.

WHEREFORE, PREMISES CONSIDERED, the Plaintiff respectfully requests the entry of judgment against the Defendant for violation of 42

U.S.C. § 1981, pursuant to an Order by which the Court:

a. issues a declaratory judgment that the employment practices, policies, procedures, conditions and customs that led to the discrimination by the defendant violate the rights of the plaintiff as secured by 42 U.S.C. § 1981;

b. grants the Plaintiff a permanent injunction enjoining the defendant, its agents, successors, employees, attorneys and those acting in concert with defendant and at defendant's request from continuing to violate 42 U.S.C. § 1981.

c. awards compensatory damages;

d. awards punitive damages

e. awards injunctive relief, including backpay, reinstatement and/or front pay where applicable;

f. awards nominal damages;

g. awards that relief which is fair, reasonable and just;

h. awards a reasonable attorney's fee; and

i. taxes costs against said Defendant.

COUNT II

RACE DISCRIMINATION
Title VII

45. The Plaintiff adopts and incorporates the above facts and allegations in support of this count.

46. The Defendant unlawfully discriminated against Mr. Whitsey based on his race by subjecting him to disparate treatment with respect to discipline for red board violations.

47. Upon information and belief, the Defendant engages in a pattern and practice of discriminating against African-American employees with respect to discipline.

48. The Defendant's discriminatory conduct injured the Plaintiff.

WHEREFORE, PREMISES CONSIDERED, the Plaintiff respectfully requests the entry of judgment against the Defendant for violation of Title VII of the Civil Rights Act of 1964, as amended, pursuant to an Order by which the Court:

a. issues a declaratory judgment that the employment practices, policies, procedures, conditions and customs that led to the discrimination by the defendant violate the rights of the plaintiff as secured by Title VII;

b. grants the Plaintiff a permanent injunction enjoining the defendant, its agents, successors, employees, attorneys and those acting in concert with defendant and at defendant's request from continuing to violate Title VII;

c. awards compensatory damages;

d. awards punitive damages;

e. awards injunctive relief, including backpay, reinstatement, and/or front pay where applicable;

f. awards nominal damages;

g. awards that relief which is fair, reasonable and just;

h. awards a reasonable attorney's fee; and

i. taxes costs against said Defendant.

COUNT III

SEX DISCRIMINATION
Title VII

51. The Plaintiff adopts and incorporates the above facts and allegations in support of this count.

52. The Defendant unlawfully discriminated against Mr. Whitsey based on his gender by subjecting him to disparate treatment with respect to discipline for red board violations as compared to one or more female employees.

53. The Defendant's discriminatory conduct injured the Plaintiff.

WHEREFORE, PREMISES CONSIDERED, the Plaintiff respectfully requests the entry of judgment against the Defendant for violation of Title VII of the Civil Rights Act of 1964, as amended, pursuant to an Order by which the Court:

a. issues a declaratory judgment that the employment practices, policies, procedures, conditions and customs that led to the discrimination by the defendant violate the rights of the plaintiff as secured by Title VII;

b. grants the Plaintiff a permanent injunction enjoining the defendant, its agents, successors, employees, attorneys and those acting in concert with defendant and at defendant's request from continuing to violate Title VII;

c. awards compensatory damages;

d. awards punitive damages;

e. awards injunctive relief, including backpay, reinstatement, and/or front pay where applicable;

f. awards nominal damages;

g. awards that relief which is fair, reasonable and just;

h. awards a reasonable attorney's fee; and

i. taxes costs against said Defendant.

THE PLAINTIFF REQUESTS A TRIAL BY STRUCK JURY ON ALL ISSUES SO TRIABLE.

Respectfully submitted,

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